

1
2
3
4
5
6
7
8

9
10
11
12
13
14
15
16
17
18
19

H.616

Introduced by Representatives Koch of Barre Town, Lenes of Shelburne and
O'Brien of Richmond

Referred to Committee on

Date:

Subject: Health; mental health; involuntary treatment

Statement of purpose: This bill proposes to amend the admissions process for
involuntary mental health treatment.

An act relating to involuntary mental health treatment

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 18 V.S.A. § 7101(26) and (27) are added to read:

(26) "Assent" means express or implied willingness to undergo health
care treatment despite a lack of capacity to make medical decisions and may be
presumed if a person is not conscious or is otherwise physically unable to
express an opinion.

(27) "Capacity" means the ability to understand the information relevant
to a decision, apply the information to one's own situation, appreciate the
nature of the decision and its consequences, including the risks and benefits,
and express a choice about the decision.

1 Sec. 2. 18 V.S.A. § 7509 is amended to read:

2 § 7509. TREATMENT; RIGHT OF ACCESS

3 (a) Upon admission to the hospital pursuant to ~~sections~~ section 7508, 7617,
4 or 7624 of this title, the ~~person~~ individual shall be treated with dignity and
5 respect, shall be assessed by a psychiatrist to determine what treatment is
6 required and whether the individual has the capacity to make decisions
7 regarding the treatment, and shall be given such medical and psychiatric
8 treatment as is indicated. If the psychiatrist determines that the individual has
9 capacity to make decisions regarding medication, the individual shall have the
10 right to make all decisions regarding this type of treatment.

11 (b) If the determination under subsection (a) of this section is that the
12 individual lacks the capacity to make the decision regarding treatment, a
13 second psychiatrist shall assess the individual's capacity and need for
14 treatment. The second psychiatrist shall determine whether psychiatric
15 medication is necessary by reviewing the factors in subsection 7627(c) of this
16 title. If the psychiatrist determines that the individual has capacity to make
17 decisions regarding medication, the individual shall have the right to make all
18 decisions regarding this type of treatment. If the individual lacks capacity but
19 assents to the treatment, the individual may receive the treatment as prescribed.

20 (c) If the determination under subsection (b) of this section is that the
21 individual lacks capacity and communicates an objection to the prescribed

1 treatment, then a panel comprising a psychiatrist, an attorney, and a family
2 member of a consumer or consumer of mental health services shall review the
3 decision of the prior two physicians regarding capacity and treatment needs.

4 (d) If the panel determines that the individual has capacity or that the
5 prescribed treatment is not in the individual's best interest according to the
6 factors in subsection 7627(c) of this title, it will deny the request to treat the
7 individual involuntarily. If the panel agrees with the decisions of the two
8 physicians, it shall document its decision, including the factors in subsection
9 7627(c).

10 (e) Any medication given to an individual under subsection (d) of this
11 section shall be short-acting in nature and designed to return the individual's
12 capacity to make treatment decisions.

13 (f) If an individual continues to refuse prescribed medication and continues
14 to lack capacity after four weeks of treatment, the commission may file a
15 petition under section 7624 of this title. Any order of treatment issued under
16 this section shall remain in force pending the court's decision on the petition
17 for involuntary medication.

18 ~~(b)~~(g) The ~~person~~ individual shall be given the opportunity, subject to
19 reasonable limitations, to communicate with others, including the reasonable
20 use of a telephone.

1 ~~(e)~~(h) The ~~person~~ individual shall be requested to furnish the names of
2 persons he or she may want notified of his or her hospitalization and kept
3 informed of his or her status. The head of the hospital shall see that such
4 persons are notified of the status of the patient, how ~~he or she~~ the patient may
5 be contacted and visited, and how they may obtain information concerning ~~him~~
6 ~~or her~~ the patient.

7 Sec. 3. EFFECTIVE DATE

8 This act shall take effect on July 1, 2010, and shall apply to admissions
9 occurring on or after that date.